

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

STEVEN L. FISHER, #A0002539,)	CIV. NO. 15-00484 DKW/KSC
Petitioner,)	
vs.)	DISMISSAL ORDER
)	
WARDEN J. TAYLOR,)	
)	
Respondent.)	
)	

DISMISSAL ORDER

On or about September 2, 1981, Petitioner Steven L. Fisher was convicted of Murder in violation of Hawaii Revised Statutes §§ 707-701(1) & 706-606(a). Petitioner challenges his sentence of life without the possibility of parole imposed by the Circuit Court of the Third Circuit, State of Hawaii.

Rule 4 of the Rules Governing § 2254 Cases in the United States District Courts (“Habeas Rules”) requires the court to make a preliminary review of each petition for writ of habeas corpus. The court must summarily dismiss a petition “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court.” Habeas Rule 4; *O'Bremski v. Maass*, 915 F.2d 418, 420 (9th Cir. 1990); *see also Hendricks v. Vasquez*, 908 F.2d 490 (9th Cir. 1990).

Petitioner unsuccessfully challenged his 1981 conviction and sentence in this court in *Fisher v. Smythe*, Civ. No. 92-00081 ACK (D. Haw. 1992). The Honorable Alan C. Kay denied that petition on May 20, 1992, finding that Petitioner failed to exhaust state remedies before filing his federal petition for writ of habeas corpus. *Id.*, Doc. No. 7. Because only an appellate court can authorize this court to consider a second or successive petition for writ of habeas corpus, and because no such authorization has been sought, much less issued, this court lacks jurisdiction to consider Petitioner's claims. *See Burton v. Stewart*, 549 U.S. 147, 152 (2007); *see also*, 28 U.S.C. § 2244(b)(3)(A).

This action is DISMISSED without prejudice to Petitioner's seeking certification from the Ninth Circuit Court of Appeals to proceed in this court. All pending motions are DENIED.

IT IS SO ORDERED.

DATED: November 18, 2015 at Honolulu, Hawai'i.





Derrick K. Watson
United States District Judge

Steven L. Fisher, #A0002539 v. Warden J. Taylor; Civil No. 15-00484 DKW/KSC;
DISMISSAL ORDER